

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

CARNELL HUNNICUTT, SR.,

Plaintiff,

v.

CV No. 20-206 MV/CG

DANIEL PETERS, et al.,

Defendants.

ORDER GRANTING *IN FORMA PAUPERIS* APPLICATION

THIS MATTER is before the Court on Plaintiff Carnell Hunnicutt's *Motion for Leave to Proceed in Forma Pauperis* (the "Motion"), (Doc. 2). Plaintiff's financial information reflects he is unable to prepay the \$400 filing fee for his prisoner civil rights complaint. The Court will therefore grant the Motion, which reduces the fee to \$350.00, and allow Plaintiff to pay in installments. See 28 U.S.C. § 1915(b). Plaintiff must make an initial partial payment of "20 percent of the greater of—(A) the average monthly deposits to the prisoner's account; or (B) the average monthly balance in the prisoner's account for the 6-month period immediately preceding the filing of the complaint..." *Id.* Thereafter, Plaintiff is "required to make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account." 28 U.S.C. § 1915(b)(2).

Plaintiff's inmate account statement reflects his average monthly deposits equal \$102.32, and his average monthly account balance is \$53.81. (Doc. 3 at 3-5). The Court will assess an initial payment of \$20.46 (which is 20% of the greater figure, \$102.32) pursuant to § 1915(b)(1)(A). The Court will generally not review the merits of Plaintiff's civil rights complaint unless the initial partial payment is paid or excused. If Plaintiff fails to timely make the initial partial payment, his complaint will be dismissed without further

notice.

IT IS THEREFORE ORDERED that Plaintiff's *Motion for Leave to Proceed in Forma Pauperis*, (Doc. 2), is **GRANTED**;

IT IS FURTHER ORDERED that no later than **June 11, 2020**, Plaintiff shall send to the Clerk an initial partial payment of **\$20.46** or show cause for the failure to pay;

IT IS FURTHER ORDERED that the Clerk is directed to provide Plaintiff with two copies of this order, and that Plaintiff make the necessary arrangements to attach one copy of this order to the check in the amount of the initial partial payment;

IT IS FINALLY ORDERED that, after payment of the initial partial fee, Plaintiff make monthly payments of twenty percent (20%) of the preceding month's income credited to his account or show cause why the designated payments should be excused.

IT IS SO ORDERED.



THE HONORABLE CARMEN E. GARZA
CHIEF UNITED STATES MAGISTRATE JUDGE